



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815  
(916) 323-2514 • (916) 324-0908 FAX • [WWW.CALEPA.CA.GOV](http://WWW.CALEPA.CA.GOV)

LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER  
GOVERNOR

Certified Mail: 7003 1680 0000 6174 9323

December 13, 2007

Mr. Bill Cody  
Fire Chief  
Livermore-Pleasanton Fire Department  
3560 Nevada Street  
Pleasanton, California 94566

Dear Mr. Cody:

The California Environmental Protection Agency (Cal/EPA) and Department of Toxic Substances Control conducted a program evaluation of Livermore – Pleasanton Fire Department Certified Unified Program Agency (CUPA) on November 7 and 8, 2007. The evaluation was comprised of an in-office program review and a field oversight inspection. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the Livermore – Pleasanton Fire Department CUPA program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency progress report is due on February 6, 2008.

Cal/EPA also noted during this evaluation that the Livermore – Pleasanton Fire Department CUPA has worked to bring about a number of local program innovations, including: seeking out ways to be efficient and having commendable coordination with all the other CUPA's in Alameda County. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Mr. Bill Cody  
December 13, 2007  
Page 2

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

[Original signed by Jim Bohon]

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure

cc/Sent via Email:

Mr. Eric Carlson (Sent via mail)  
Fire Marshal  
Livermore-Pleasanton Fire Department  
3560 Nevada Street  
Pleasanton, California 94566

Mr. Scott Deaver (Sent via mail)  
Assistant Fire Marshal  
Livermore-Pleasanton Fire Department  
3560 Nevada Street  
Pleasanton, California 94566

Danielle Stefani  
Hazardous Materials Coordinator  
Livermore-Pleasanton Fire Department  
3560 Nevada Street  
Pleasanton, California 94566

Ms. Asha Arora [DTSC Evaluator]  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 210  
Berkeley, California 94710-2721

Mr. Bill Cody  
December 13, 2007  
Page 3

cc/Sent via Email:

Mr. Kevin Graves  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Ms. Terry Brazell  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, California 94244-2102

Mr. Charles McLaughlin  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Ms. Maria Soria  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710

Mr. Ben Ho  
Office of the State Fire Marshal  
P.O. Box 944246  
Sacramento, California 94244-2460

Mr. Brian Abeel  
Governor's Office of Emergency Services  
P.O. Box 419047  
Rancho Cordova, California 95741-9047



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815  
(916) 323-2514 • (916) 324-0908 FAX • [WWW.CALEPA.CA.GOV](http://WWW.CALEPA.CA.GOV)

ARNOLD SCHWARZENEGGER  
GOVERNOR

## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

**CUPA: Livermore – Pleasanton Fire Department**

**Evaluation Date: November 7 and 8, 2007**

### **EVALUATION TEAM**

**Cal/EPA: JoAnn Jaschke**

**DTSC: Asha Arora**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
1	<p>The FY 04/05, 05/06, and 06/07 Annual Single Fee Summary Report (Report 2) submitted to Cal/EPA by the CUPA did not include all the required information. The report was missing: the amount of the single fee and state surcharge billed, waived, and collected as well as the business counts.</p> <p>The CUPA acknowledged that the reports were incomplete since they are experiencing challenges with switching to a new billing system and department responsible for the billing. The Fire Department used to bill the regulated facilities. Now, the Finance Department handles the billing.</p> <p>CCR, Title 27, section 15290(a)(1)(A-E) (Cal/EPA)</p>	<p>The CUPA received information on the amount of the single fees billed to the regulated facility from the Finance Department and should be receiving information on the amount of the single fees collected.</p> <p>By September 30, 2008, the CUPA shall submit the FY 07/08 Report 2 that includes all the required information of Title 27, section 15290(a)(1)(A-E).</p>
2	<p>The CUPA is not annually reviewing and updating their fee accountability program.</p> <p>CCR, Title 27, section 15220 (Cal/EPA)</p>	<p>By September 30, 2008, the CUPA shall submit the FY 07/08 required fee accountability information to Cal/EPA.</p>
3	<p>The CUPA's consolidated permit does not include an expiration date for the permit.</p> <p>CCR, Title 27, section 15190(i)(5) CCR, Title 23, section 2712(c) (Cal/EPA)</p>	<p>By January 2009, the CUPA will incorporate an expiration date on the permits issued to the regulated facilities for the UST program.</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

4	<p>The CUPA is not meeting the required HMRRP inspection frequency of once every three years. During file review, 4 out of the 8 files showed the following dates for the latest inspection.</p> <ul style="list-style-type: none"> <li>• Larry's Automotive, 32 California Ave, Pleasanton, CA 94566 – 7/6/99</li> <li>• Trans Western Polymers, 6545 Las Positas Rd, Livermore, CA 94550 – 10/23/03</li> <li>• Ruby Hill Golf Club, 3400 West Ruby Hill Drive, Pleasanton, CA 94566 – 9/5/01</li> <li>• Ritz Camera, 2851 Hopyard Rd, Pleasanton, CA 94588 – 4/28/00</li> </ul> <p>HSC, sections 25508(b) and CCR, Title 27, section 15200(3) (Cal/EPA)</p>	<p>The CUPA has a plan for addressing this and has started implementing the plan. Therefore, Cal/EPA considers this deficiency correct and will monitor the inspection frequencies by the annual summary report 3 submitted to the state.</p>
5	<p>The CUPA is not conducting LQG inspections in a manner consistent with state statute or regulation for businesses subject to hazardous waste generator program.</p> <p>During the oversight inspection staff was not familiar with LQG requirements. For examples:</p> <ul style="list-style-type: none"> <li>• A written inspection schedule (weekly for containers and monthly for emergency equipment) since a number of fire extinguishers were last checked from 1999 - 2003. This should have been cited as a non-minor violation.</li> <li>• Not maintaining proper aisle space,</li> <li>• Failure to limit one container per waste stream at one satellite area, and</li> <li>• Not marking nine (9) 55-gallon empty containers with date emptied.</li> </ul> <p>CCR, Title 27, section 15200 (DTSC)</p>	<p>Effective immediately the CUPA shall ensure that they are conducting LQG inspections in a manner consistent with state statute or regulation for businesses subject to hazardous waste generator program.</p> <p>The DTSC staff conducting the oversight inspection explained these violations to the inspector, and the inspector later sent the facility an addendum to the inspection report.</p> <p>By March 1, 2008, the CUPA shall provide LQG training to their inspectors.</p>
6	<p>The CUPA is not ensuring that businesses submit their annual CA/PBR update or their CA/PBR authorization treatment notifications. The latest PBR notification for Livermore Anodize is from 6/2005.</p> <p>CCR, Title 27, section 15200, and Title 22, section 67450.3(c)(1), (DTSC)</p>	<p>By February 1, 2008, the CUPA will start the AEO process to obtain the required information from Livermore Anodize.</p>
7	<p>The CUPA is not always citing violations consistent with definitions of minor, Class II or Class I as provided in state statute law and regulation and their Inspection and</p>	<p>The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

	<p>Enforcement Plan. For example:</p> <ul style="list-style-type: none"> <li>Ken Tires (compliant referred by DTSC, 10/16/06) - inspection reports of 10/16/06, 11/16/06, and 10/129/07 show significant hazardous waste release under vehicles in the parking lot, and illegal disposal of waste absorbent and were noted in the observations but not included in the violations section. These violations are considered class I violations and require formal enforcement action.</li> </ul> <p>CCR, Title 27, section 15200 (f)(2), and HSC, section 25110.8.5, and 25117.6, and CCR Title 22, section 66260.10, (DTSC)</p>	<p>refresher training may include covering the Cal/EPA <b>“Violation Classification Guidance Document for Unified Program Agencies”</b> which can be found on the Cal/EPA website under Unified Programs-Technical Assistance.</p>
8	<p>The CUPA is not taking enforcement in manner consistent with state statute in all cases.</p> <p>The CUPA did not take the appropriate enforcement for the following violations noted:</p> <ul style="list-style-type: none"> <li>Ken Tires (compliant referred by DTSC, 10/16/06) - inspection reports of 10/16/06, 11/16/06, and 10/129/07 showed significant hazardous waste release under vehicles in the parking lot, and illegal disposal of waste absorbent and were noted in the observations but not included in the violations section. These violations are considered class I violations and require formal enforcement action.</li> </ul> <p>CCR, Title 27, section 15200 (f)(2)(C), and HSC, sections 25401.4(c), (DTSC)</p>	<p>By February 1, 2008, the CUPA will begin taking formal enforcement against Ken Tires.</p> <p>After February 1, 2008, the CUPA will provide Cal/EPA and DTSC with updates every 90 days on their progress towards achieving final settlement Ken Tires.</p>

**CUPA Representative**

\_\_\_\_\_  
Danielle Stefani  
(Print Name)

\_\_\_\_\_  
Originally Signed  
(Signature)

**Manager Cal/EPA  
Unified Program**

\_\_\_\_\_  
Jim Bohon  
(Print Name)

\_\_\_\_\_  
Originally Signed  
(Signature)

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.*

- 1. Observation:** Currently, the City of Pleasanton does not charge their regulated facilities directly via a single fee under the CUPA program. The CUPA expenses for the City of Pleasanton, including the state surcharge, are covered under the general fund. The City of Pleasanton is initiating a fee study to determine if the city wants to assess a single fee for some or all of the CUPA expenses. The City of Livermore assesses an annually single fee that covers 100% of the CUPA expenses for the City of Livermore. Additionally, the City of Livermore offers a discounted payment of the single fee and state surcharge if the regulated facility submits the fee payment by a specific time. The City of Livermore makes up the difference for the discounted payments (and failure to pay) and submits the full state surcharge amounts to the state. The CUPA's process will return to remitting to the state only the state surcharge collected from the regulated facilities if the discounts are either eliminated or are only applied to the city fees.

**Recommendation:** Under CCR, Title 27, section 15210(c)(2), the CUPA fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program; however, for consistency purposes, the CUPA may want to consider establishing a uniform structure. A uniform structure would be less confusing for a regulated entity that has regulated facilities within both cities. Additionally, the CUPA is not required to submit the state surcharge for the regulated facilities within the City of Livermore that fail to pay.

- 2. Observation:** The CUPA takes formal enforcement when necessary by referring cases to their County District Attorney or City Attorney and by issuing administrative enforcement orders. The CUPA reached a final AEO settlement in the amount of \$20,000 with Bonner Metal Process, LLC.

**Recommendation:** Continue taking formal enforcement against regulated facilities with non-minor violations when necessary and reporting this on the Annual Enforcement Summary Report (Report 4) submitted to Cal/EPA.

- 3. Observation:** During the oversight inspection, the CUPA inspector conducted a complete site walkthrough of this facility for the first time. The inspector reviewed applicable documents, built a good rapport with the facility representatives. The CUPA inspector was also professional and courteous in explaining hazardous waste requirements. The CUPA inspector also made recommendation to manage batteries as universal waste rather than hazardous wastes.

**Recommendation:** Continue making good recommendations to the facilities.

- 4. Observation:** During the oversight inspection CUPA inspector was not familiar with facility's health and safety requirements.

**Recommendation:** Inspectors should be aware of the personnel health and safety requirements appropriate for the type of facility being inspected.

- 5. Observation:** The CUPA inspector took a couple of photographs during the oversight inspection.

Certified Unified Program Agency (CUPA)

Evaluation Summary of Findings

**Recommendation:** Continue taking pictures of observed violations and conditions at a facility to provide additional evidence to support the noted violations.

6. **Observation:** Additional information could be added to the CUPA's inspection reports to support class I violations.

**Recommendation:** Including details of the observed violations would provide a clear and concise picture of any violations and strengthen the inspection reports when informal or formal enforcement actions are taken. Obtaining a facility map would be beneficial to the inspector and the inspection report with hazards waste management areas noted.

7. **Observation:** The CUPA gave FormFactor an opinion that the CUPA agreed with their determination that their cyanide bearing waste water was not hazardous waste.

**Recommendation:** DTSC feels the CUPA should defer all cyanide related issues to DTSC until the cyanide regulations are final. The CUPA can assist with waste determination, but if it is a waste classification issue that would normally go to DTSC, then DTSC retains jurisdiction over the classification. The CUPA can review cyanide waste analysis and assist the generator with waste determination issues.

8. **Observation:** The CUPA's files do not indicate a change in ownership for InPhenix.

**Recommendation:** The CUPA shall ensure that facilities submit change of ownership and retain documentation in files.

9. **Observation:** The CUPA did not close two inspections in a timely manor. On 5/25/07, the CUPA started an inspection of InPhenix, and as of November 8, 2007, the inspection has not been completed. The notes/draft inspection report noted storage greater than one (1) year for four (4), 55-gallon hazardous waste containers. The notes/draft inspection report also noted storage greater than one year for 50 lead acid batteries. The file records revealed InPhenix is treating hazardous waste onsite without authorization. On 6/27/07, the CUPA started an inspection of Livermore Anodize and as of November 8, 2007, the inspection has not been completed.

**Recommendation:** The CUPA should close inspections in a timely manor.

10. **Observation:** The CUPA is not consistently following up with a facility's violation(s) in a timely manor.

**Recommendation:** The CUPA should follow up with a facility's violation(s) in a timely manor.



Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA's coordination with all the other CUPAs in Alameda County is commendable. The CUPA is a participant in a Coordinating Agencies Agreement with Alameda County Environmental Health, the City of Berkeley, the City of Fremont, the City of Oakland, the City of Hayward, the City of Newark, the City of San Leandro, and Union City within Alameda County. The Agreement requires the CUPAs to adopt processes for the administration of the Unified Program that is coordinated, consistent, and less fragmented. The CUPAs within Alameda County meet once a month to discuss activities. The group is developing a guidance document for completing inspection reports. This document explains information that should be included within each section for the inspection report – findings, description, explanation, education resources available, and supportive observation. The CUPA also attends the monthly Alameda County Environmental Enforcement Task Force Meetings.
2. The CUPA is proactive in seeking out ways to be efficient. For examples,
  - The Livermore – Pleasanton Fire Department is reclassifying all their inspectors to Fire Inspectors. This will allow one inspector to inspect a regulated facility for fire and hazardous waste rather than having two separate inspectors inspecting the same facility. All their inspectors will be cross trained. Unique/complex facilities will be assigned to inspectors based upon an inspector's expertise.
  - The CUPA is planning on hiring another Fire Inspector in December 2007. This is going to reduce the number of inspection the CUPA manager conducts. This is going to allow the CUPA manager to make improvements to their database. Inspectors are going to be provided laptops to produce inspection reports in the field, using the guidance being developed. This information will be uploaded into the CUPA's database, enabling the CUPA to improve their monitoring of a facility's violations.